

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LEONID KUCHEROV,

Plaintiff,

v.

MTC FINANCIAL, INC., et al.,

Defendants.

CASE NO. C16-5276 BHS

ORDER DENYING PLAINTIFF'S
MOTION TO STAY AND/OR
CANCEL FORECLOSURE SALE

This matter comes before the Court on Plaintiff Leonid Kucherov's ("Kucherov") motion to stay and/or cancel foreclosure sale (Dkt. 11). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On March 17, 2016, Kucherov filed a complaint against numerous defendants in Clark County Superior Court for the State of Washington. Dkt. 2, Exh. A. Kucherov alleges causes of action for wrongful foreclosure, fraud, misrepresentations, civil conspiracy, quiet title, and violations of the Fair Debt Collections Practices Act. *Id.*

On April 11, 2016, Defendants removed the matter to this Court. Dkt. 1.

1 On April 20, 2016, Kuchеров filed the instant motion requesting an order
2 enjoining a foreclosure sale purportedly scheduled for April 22, 2016. Dkt. 11.

3 II. DISCUSSION

4 Kuchеров appears to argue that a restraining order and injunction should issue
5 under both the Washington Deed of Trusts Act (“DTA”), RCW Chapter 61.24, and the
6 Court’s inherent power. Dkt. 11 at 1–2. With regard to the DTA, Kuchеров has failed to
7 show that he gave any defendant or the trustee the requisite 5 days’ notice or that he is
8 able to make the requisite payments to the Court’s registry. RCW 61.24.130. Therefore,
9 the Court denies the motion for a temporary restraining order under the DTA.

10 With regard to the Court’s inherent power, plaintiff must establish: (1) a likelihood
11 of success on the merits; (2) a likelihood of irreparable harm absent a preliminary
12 injunction; (3) that the balance of equities tips in favor of issuing an injunction; and (4)
13 that an injunction is in the public interest. *Winter v. Natural Resources Defense Council*,
14 555 U.S. 7, 19 (2008). Kuchеров has failed to show a likelihood of success on the merits
15 of any of his claims. The mere fact that he asserts claims is not sufficient grounds to find
16 that he is likely to succeed on them. In other words, Kuchеров has failed to show that
17 the pending foreclosure is a result of any improper transfer instead of a failure to comply
18 with contractual obligations of the loan. Therefore, the Court denies Kuchеров’s motion
19 for temporary restraining order under its inherent power.

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III. ORDER

Therefore, it is hereby **ORDERED** that Kucherov's motion to stay and/or cancel foreclosure sale (Dkt. 11) is **DENIED**.

Dated this 21st day of April, 2016.



BENJAMIN H. SETTLE
United States District Judge